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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/797.188	02/11/97	DEAN GELIS	15345-40907

Roken

QNZ1/0429
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EXAMINER

MUIR, D

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 01/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Final Action Response due: July 29, 1999

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FULWIDER PATTON LEE & UTECHT
LOS ANGELES

Office Action Summary

Application No.
08/797,188

Applicant(s)

DeAngelis

Examiner

Neal Muir

Group Art Unit

3712



☒ Responsive to communication(s) filed on Dec 9, 1998

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-13, 18-30, 82-113, 122-128, 146-149, 152-164, and 3280 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) 1-13, 18-30, 32-35, 40-42, 57-60, 103-90, 82-91, 96-99, 104-106, 129-125, 141, 149, 152, 153 & 162-164 is/are allowed.

☐ Claim(s) all remaining is/are rejected.

☒ Claim(s) 101, 102, and 128 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3712

DETAILED ACTION

Amendment

1. Amendment "C" has been received and made of record as Paper Number 7.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 61, 62, 146 and 147 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenhagen et al.

Rosenhagen discloses a toy which may be used in a central station environment with previously stored commands taking precedence over garbage that is input. Any controller may control any vehicle.

Claim Rejections - 35 USC § 103

4. Claims 23-27, 107, 155, 157 and 159-161 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenhagen et al in view of Stern et al.

Art Unit: 3712

Rosenhagen lacks a central station, such as is taught by Stern. It would have been obvious to one of ordinary skill in the art to have provided a Rosenhagen set with a central station, as taught by stern, in order to only require one transmitter, thereby saving on electronic costs.

5. Claims 28, 29, 36-39, 43-56, 92-95, 100, 103, 108-110, 122, 123, 126, 127 and 154 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yavetz in view of Stern et al.

Yavetz discloses toys which may be selectively accessed but lacks a central station. The Yavetz controller features a plurality of lights, LED's 50,52,54 and 56, each linked to selection switches 42,44,46 and 48. He lacks a central station, such as is taught by Stern. It would have been obvious for one to have provided a Yavetz toy set with a central station, as taught by Stern, in order to provide a single transmitter, thereby saving on electronics costs. The substitution of a single sequential switch for object choosing in lieu of a plurality of individual switches is seen to have been an obvious choice of design well within the skill of one of ordinary skill in the art and would have been desired in that one sequential switch is much less expensive than several switches, both in terms of costs and assembly costs.

6. Claims 156 and 158 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenhagen et al in view of Stern et al as applied to claims 155 and 157 above, and further in view of Yavetz.

Rosenhagen, as modified, lacks indicator lights to indicate which vehicle is being accessed, something taught by Yavetz. It would have been obvious to have provided a Rosenhagen set with indicator lights, as taught by Yavetz, in order to ensure exactly which vehicle was being ordered.

Art Unit: 3712

7. Claims 111-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yavetz in view of Stern et al and Rosenhagen et al.

Yavetz lacks a central station, as taught by Stern, and the ability to access any vehicle, as taught by Rosenhagen. It would have been obvious to have provided a Yavetz set with a central station and the ability to control any vehicle, as taught by Stern and Rosenhagen, in order to save on electronic costs and to have the ability to capture an opponents' vehicle.

Allowable Subject Matter

8. Claims 1-13, 18-22, 30, 32-35, 40-42, 57-60, 63-80, 82-91, 96-99, ~~101, 102~~^{101, 102, 104}, 104-106, 124, 125, 148, 149, 152, 153 and 162-164 are allowed.

9. Claim ^{101, 102, 104} 128 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Remarks

10. Applicant's arguments with respect to claims 1-151 have been considered but are deemed to be moot in view of the new grounds of rejection.

Yavetz still discloses a toy set with a single controller accessing several toys with indicator lights to establish which toy vehicle is being used.

Art Unit: 3712

Stern et al does disclose a single track with several vehicles running thereon with a central station which each of the controllers is plugged into. It is understood that the station receives inputs from the controller as long as they are plugged in and stops when they are removed. It is considered that receipt of the inputs constitutes "inquiry" in the absence of limitations to the contrary.

Rosenhagen discloses the a toy set where any toy vehicle may be commanded by any controller where the toy has the requirement for continuing the last command until a valid subsequent command is issued. Any number of improper commands may be issued with no effect upon the toy chosen.

Conclusion


11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3712

12. Any inquiry concerning this communication should be directed to D. Neal Muir at telephone number (703) 308-1206.

DNM
April 26, 1999



D. Neal Muir
Examiner
Art Unit 3712